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MAY 23 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. Marco BANEGAS-Aceituno, Defendant.	Mag. Case No. '08 MJ 8462 COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1326 Deported Alien Found In the United States

The undersigned complainant being duly sworn states:

On or about May 22, 2008, within the Southern District of California, defendant Marco BANEGAS-Aceituno, an alien, who previously had been excluded, deported or removed from the United States to Honduras was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States code, section 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 23rd DAY OF MAY 2008.

PETER C. LEWIS
U.S. MAGISTRATE JUDGE

UNITED STATES OF AMERICA

v.

Marco BANEGAS-Aceituno

STATEMENT OF FACTS

The complainant states that this complaint is based upon the statements in the investigative reports of Border Patrol Agent T. Louck, that the Defendant, Marco BANEGAS-Aceituno, was found and arrested on May 22, 2008, near Ocotillo, California.

On May 22, 2008, at approximately 9:00 A.M., Agent C. Gutierrez was performing his assigned Border Patrol Duties near Ocotillo, California. Agent Gutierrez encountered a group of five individuals, one later identified as Marco BANEGAS-Aceituno. As he approached the group, Agent Gutierrez identified himself and questioned them. It was determined that the individuals in the group were all citizens of countries other than the United State and they are all in the United State illegally. BANEGAS and the others were arrested and transported to the Imperial California Border Patrol Station.

At the station, a record check of BANEGAS revealed he had been previously deported from the Unites States on February 22, 2001. Further record check of BANEGAS revealed he has an extensive criminal history.

Agent Louck witnessed Agent G. Corzo read BANEGAS his rights per Miranda. BANEGAS stated he understood his rights and was willing to speak with agents without an attorney present. BANEGAS stated he crossed the International Boundary into the United States from Mexico and a green car was to pick him up. When asked if he had been previously deported BANEGAS relied "Yes." When asked if he had ever sought and received permission from the United States Attorney General or the Secretary of Homeland Security to re-enter the United States, BANEGAS states "No."